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**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

MADISON SQUARE BOYS & GIRLS CLUB, INC.,¹

Debtor.

Chapter 11

Case No. 22-10910 (SHL)

NOTICE OF FILING OF FIRST DAY HEARING DEMONSTRATIVE

PLEASE TAKE NOTICE that on June 29, 2022 (the “Petition Date”), the above captioned debtor and debtor in possession (the “Debtor”), filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code with the United States Bankruptcy Court for the Southern District of New York.

PLEASE TAKE FURTHER NOTICE that a hearing (the “First Day Hearing”) was held before the Bankruptcy Court on July 1, 2022 before the Honorable Sean H. Lane, United States Bankruptcy Judge, United States Bankruptcy Court for the Southern District of New York, 300 Quarropas Street, White Plains, New York 10601, in order to consider, among other things, the relief requested by the Debtor in connection with certain forms of first day relief.

PLEASE TAKE FURTHER NOTICE that in connection with the Debtor’s presentation at the First Day Hearing, the Debtor’s proposed counsel utilized the materials attached hereto as **Appendix 1**.

PLEASE TAKE FURTHER NOTICE that copies of documents filed in this chapter 11 case can be viewed and/or obtained by: (i) accessing the Court’s website at www.nysb.uscourts.gov, or (ii) from the Debtor’s proposed claims and noticing agent, Epiq Corporate Restructuring, LLC, at <https://dm.epiq11.com/madisonsquare> or by email at

¹ The last four digits of the Debtor’s federal tax identification number are 6792. The Debtor’s mailing address is 250 Bradhurst Avenue, New York, New York 10039.

MadisonSquareInfo@epiqglobal.com. Note that a PACER password is needed to access documents on the Court's website.

New York, New York

Dated: July 1, 2022

/s/ Alan W. Kornberg

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*Proposed Counsel to the Debtor and Debtor in
Possession*

Appendix 1



**MADISON SQUARE
BOYS & GIRLS CLUB**

Madison Square Boys & Girls Club, Inc.

First Day Presentation
U.S. Bankruptcy Court for the Southern District of New York
July 1, 2022 at 11 a.m. (ET)

PRESENTATION OVERVIEW



- I. Introduction
- II. Overview of Madison Square
- III. Organizational and Capital Structure
- IV. Events Leading to Chapter 11
- V. Pre-petition Engagement
- VI. Restructuring Framework
- VII. First Day Motions

INTRODUCTION



- **Madison's key management team:** Tim McChristian, *Executive Director* and Jeffrey Dold, *Chief Financial Officer* and *First Day Declarant*
- **Paul, Weiss, Rifkind, Wharton & Garrison LLP**, proposed counsel to Madison: Alan W. Kornberg, Andrew M. Parlen, Billy A. Clareman, John T. Weber, and Miriam Levi
- **Teneo Capital LLC**, proposed financial advisor to Madison: Harrison Goldin and Robin Chiu



**MADISON SQUARE
BOYS & GIRLS CLUB**

OVERVIEW OF MADISON SQUARE

OVERVIEW OF MADISON SQUARE



- **Established in 1884**, Madison is one of the oldest New York not-for-profit organizations and one of the founding members of Boys & Girls Clubs of America
- Madison's **charitable mission** is to provide educational, recreational, and mentorship services for youth in New York City's most under-served neighborhoods
- Launched in a vacant store on First Avenue and 37th Street, Madison now operates **six clubhouse facilities** across New York City
- Since its founding more than a century ago, Madison has provided a supportive and empowering environment for **thousands of young people**. The need for its services today is greater than ever



OVERVIEW OF MADISON SQUARE



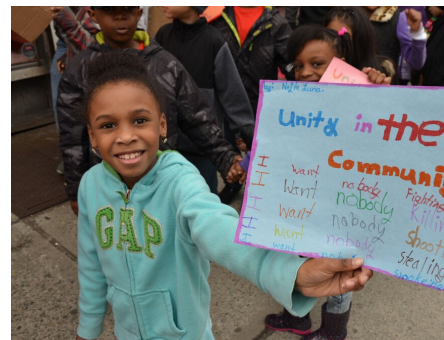
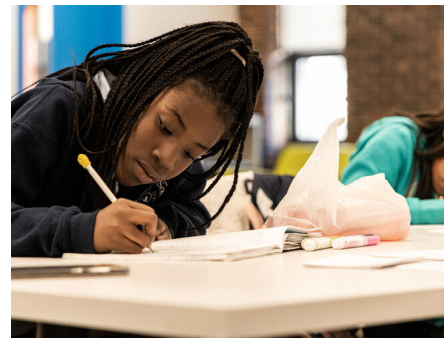
- In 1939, Herbert Hoover, then Chairman of the National Association of Boys Clubs, opened Madison's first dedicated facility on 29th Street in Manhattan
- Today, Madison operates in six New York City locations selected to maximize Madison's impact on under-resourced neighborhoods
 - **Joel E. Smilow Clubhouse** in Crotona Park East, Bronx
 - **Thomas S. Murphy Clubhouse** in Flatbush, Brooklyn
 - **John E. Grimm III Clubhouse** in Belmont, Bronx
 - **Navy Yard Clubhouse** in Navy Yard, Brooklyn
 - **Pinkerton Clubhouse** in Harlem, Manhattan
 - **Elbaum Family Clubhouse** in Brownsville, Brooklyn
- Madison owns each of the Clubhouses, except Pinkerton (which is leased from an affiliate) and Elbaum (which is housed in a school that provides space for Madison)



OVERVIEW OF MADISON SQUARE



- The Clubhouses offer daily after-school programming for young people ages 6 to 18 from 3:00 p.m. until 8:30 p.m.
- Members participate in a variety of enrichment, social, and recreational activities geared to promoting three core priority outcomes
 - Academic Success
 - Good Character and Citizenship
 - Healthy Lifestyles



OVERVIEW OF MADISON SQUARE



- Madison offers a variety of **supplemental services** to its members and their families
 - Madison helps to support its members through **scholarships** to colleges and universities
 - During the summer months, Madison offers **camp experiences** for children ages 6 to 12 and **youth employment programs** for teens
 - In 2020, Madison began a **weekly food pantry** at each of the Clubhouses and has delivered more than 262,000 pounds of food to date
 - In response to **COVID-19**, in 2020–21, Madison provided its programs virtually and conducted **weekly outreach** and **bimonthly parent nights** to give parents the opportunity to receive updates and information and connect with others





**MADISON SQUARE
BOYS & GIRLS CLUB**

ORGANIZATIONAL AND CAPITAL STRUCTURE

ORGANIZATIONAL AND CAPITAL STRUCTURE



- Madison's governance structure consists of the following components:

9-Member Board of Directors

**Executive Officers
Overseeing Daily
Management**

50 Members

- Directors and members serve on various committees, including:

**Executive
Committee**

**Operational
Committee**

**Investment
Committee**

**Child Safety
Committee**

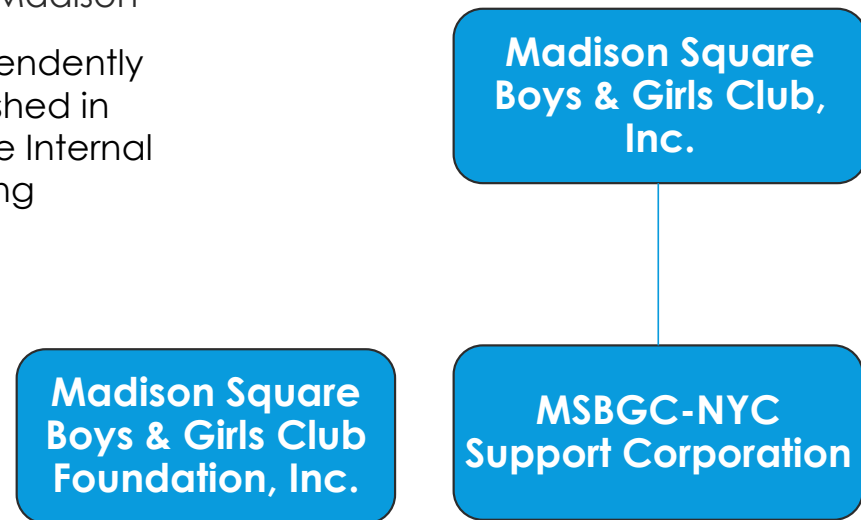
**Strategic Planning
Committee**

**Special Events
Committee**

ORGANIZATIONAL AND CAPITAL STRUCTURE



- Madison has two non-debtor affiliates:
 - **MSBGC-NYC Support Corporation** is a subsidiary of Madison that owns the Pinkerton Clubhouse and leases the building to Madison
 - **Madison Square Boys & Girls Club Foundation, Inc.** is an independently governed New York not-for-profit corporation that was established in 2020 in compliance with sections 501(c)(3) and 509(a)(3) of the Internal Revenue Code to support Madison's mission through fundraising activities



ORGANIZATIONAL AND CAPITAL STRUCTURE



- As of the Petition Date, Madison has **no secured or unsecured funded debt**
- Madison primarily funds its operations as follows:
 - Approximately **50%** from **private donations**, including through two annual signature events, the “Christmas Tree Ball” and the “Youth of the Year Dinner”
 - Approximately **30%** from **investments**
 - Approximately **20%** from **government grants**
- Many of Madison's assets are encumbered by charitable use restrictions, including the four Clubhouses it owns, which are restricted by deed, covenant, and reverter rights



ORGANIZATIONAL AND CAPITAL STRUCTURE



New Market Tax Credit Financing (NMTC)

- In 2017, Madison utilized the New Market Tax Credit program, which provides tax credits to incentivize investment in under-served areas, to **finance the construction of the Pinkerton Clubhouse**
 - Madison fundraised and loaned \$25.5 million, and PNC Bank contributed \$12.9 million through a special purpose vehicle ("HCIF"), to several community development entities ("CDEs")
 - The CDEs made a \$38 million loan, guaranteed by Madison, to MSBGC-NYC Support Corporation (the "Support Corporation") for construction of the Pinkerton Clubhouse
 - Madison pays \$98,250 quarterly (which escalates in September 2023) to the Support Corporation to lease the Pinkerton Clubhouse, which, in turn, services the CDE loans and, ultimately, Madison's loan
 - As of the Petition Date, Madison is current on its lease obligations
 - After a 7-year compliance period, PNC will recoup its investment through \$14.8 million of tax credits and can put its ownership interest in HCIF to Madison for \$1,000



**MADISON SQUARE
BOYS & GIRLS CLUB**

EVENTS LEADING TO CHAPTER 11

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Child Victims Act

- Madison's chapter 11 filing was necessitated primarily to address claims arising under New York's Child Victims Act (the "CVA"), which **modified the statute of limitations for victims of child sex abuse** with time-barred claims
 - January 28, 2019: New York State Legislature passed the CVA
 - February 14, 2019: CVA was signed into law
 - August 14, 2019: CVA window opened
 - August 13, 2021: CVA window closed
- At the close of the CVA window, Madison was named as a defendant in **86 lawsuits** involving **149 plaintiffs**, who alleged abuse from various employees and volunteers during the **1940s to the 1980s**
 - The claims alleged abuse by 11 different individuals who were employed or volunteered at Madison
 - **Approximately 90% of the claims** are attributable to Dr. Reginald Archibald, an endocrinologist employed by Rockefeller University, who volunteered as a physician for Madison

EVENTS LEADING TO CHAPTER 11



- Madison attempted to **resolve the CVA Claims on an individual basis** and reached prepetition settlements with 9 CVA Claimants without insurer assistance
- However, with litigation costs mounting and expected to escalate as time passed, and given the number of CVA Claims, **this approach became increasingly untenable and non-viable** considering Madison's extremely limited, unrestricted liquid resources
 - Several recent denials of Madison's motions to dismiss
 - Prospect of time-intensive discovery with 140 CVA Claimants
 - Extremely limited available insurance coverage
- On May 24, 2022, Governor Kathy Hochul signed into law the Adult Survivors Act (the "ASA"), which enables survivors of sexual assault that occurred when such individuals were over the age of 18 to bring a suit for time-barred claims during a one-year period beginning in November 2022
 - While Madison is not aware of any claims that may be filed against Madison that would arise under the ASA, it will seek to resolve any such potential claims in the chapter 11 case

EVENTS LEADING TO CHAPTER 11



- Madison carefully assessed its **strategic alternatives** with its advisors and determined that a comprehensive and efficient solution was necessary to address the magnitude of the pending litigation under the CVA and, if necessary, any claims under the ASA, in a **fair and equitable** manner that would also allow Madison to retain the means to continue its **vital charitable mission**
- On June 29, 2022, the Board of Directors of Madison authorized Madison to commence this chapter 11 case



**MADISON SQUARE
BOYS & GIRLS CLUB**

PREPETITION ENGAGEMENT

PREPETITION ENGAGEMENT



- From the outset, it was clear that Madison lacked the resources to engage in a lengthy restructuring process
- Therefore, Madison and its advisors spent more than a year devising a feasible framework for a **prearranged plan of reorganization** and actively engaged in multi-tracked discussions with key stakeholders, including:
 - **Ad Hoc Committee**: An ad hoc committee of over 80% of the CVA Claimants, represented and advised by Pachulski Stang Ziehl & Jones LLP and IslandDundon, a joint venture of Dundon Advisers LLC and Island Capital Group, LLC, respectively
 - **Boys & Girls Clubs of America**: The national organization of local Boys & Girls Club chapters, which was named as a defendant by 98 of the CVA Claimants in actions against Madison
 - **Rockefeller University**: The longtime employer of Dr. Archibald that was named as a defendant by 88 of the CVA Claimants, and against whom Madison believes it has significant direct and derivative claims
 - **Insurers**: Only one insurer, Federal Insurance Company (“Federal”), has accepted the defense, subject to a reservation of rights, for abuse during the period from 1977 to 1979 (accounting for 20 of the 76 pending complaints), and has paid only a fraction of Madison’s defense costs

PREPETITION ENGAGEMENT



Ad Hoc Committee of CVA Claimants

- Over the course of the past year, Madison has engaged extensively with the Ad Hoc Committee
 - Madison's advisors populated a **data room with over 2,400 documents** in response to the Ad Hoc Committee's requests and conducted numerous diligence sessions covering Madison's finances, assets, and insurance
 - On October 25, 2021, Madison sent a **detailed term sheet** with a comprehensive restructuring framework
 - On March 7, 2022, Madison sent a **proposal** describing its proposed contribution to a compensation trust for the benefit of CVA Claimants
- The Ad Hoc Committee sent its first response to Madison on June 3, 2022, which identified various issues of concern but did not include an actionable counterproposal
- Although Madison is not entering chapter 11 with a prearranged plan, Madison aims to **build on the momentum** generated in prepetition discussions with the Ad Hoc Committee in this chapter 11 case

PREPETITION ENGAGEMENT



Boys & Girls Clubs of America

- To date, BGCA has been pursuing its own defense of the 98 CVA Claims in which it has been named a defendant
- However, Madison and BGCA have communicated over the course of the past many months, and Madison believes that BGCA will be prepared to participate as a party in the mediation that Madison seeks to implement in this chapter 11 case

Rockefeller University

- Madison initiated discussions with Rockefeller in September 2020 regarding a potential contribution to a global solution with the CVA Claimants and to settle Madison's direct claims against Rockefeller, but Rockefeller refused to engage at that time
- After the expiration of the CVA Claims filing deadline, Madison re-engaged with Rockefeller, but the parties did not substantively advance discussions regarding a potential settlement prior to the filing of this chapter 11 case

PREPETITION ENGAGEMENT



Insurers

- Madison's scarce liquidity is compounded by its **limited acknowledged coverage during the relevant period**
- In 2018, Madison retained an insurance archeologist, IAG, to locate available insurance policies
 - As of the Petition Date, **IAG has uncovered evidence of 24 primary policies** for the years 1970–1991 and 11 excess policies for the years 1983–1995
- Madison gave notice of the CVA Claims to each of the identified insurers, but **apart from Federal, all have denied coverage**
 - Notwithstanding that Federal accepted the defense under a reservation of rights, Madison disagrees with Federal's position on coverage limits under the applicable policies
 - In addition, Madison has secondary evidence of a Federal policy for the period between 1976 and 1977 and Madison has urged Federal to search for primary evidence of the policy

PREPETITION ENGAGEMENT



Forbearance Agreement

- Prior to the Petition Date, Madison negotiated and executed a forbearance agreement with the parties to the NMTC financing transaction (*i.e.*, PNC Bank and the CDEs) to address the default under the financing documents caused by Madison's chapter 11 filing
- Madison does not intend to affect the NMTC financing structure through the chapter 11 case

DIP Financing

- In the month leading up to the Petition Date, Madison engaged with several third-party financing sources to fund a chapter 11 process and contributions to a compensation trust for the benefit of CVA Claimants
- While no commitments have been made as of the Petition Date, Madison is in advanced discussions with a financial institution concerning a debtor-in-possession loan and is hopeful that it will secure financing to support a restructuring plan, subject to the Court's approval



**MADISON SQUARE
BOYS & GIRLS CLUB**

RESTRUCTURING FRAMEWORK

RESTRUCTURING FRAMEWORK



- Despite extensive efforts to achieve stakeholder support for a prearranged chapter 11 case, Madison's **diminishing liquidity** could no longer sustain the slow pace of negotiations and anticipated litigation expenses
- The stark reality is that, absent a process that imposes a compulsory timeline, there is a substantial risk that Madison will have to consider liquidation alternatives
- To **avoid such a disastrous fate for its 138-year-old legacy**, Madison intends to seek the Court's approval for **mandatory mediation** with key parties for a 90-day period and **suspension** of substantially all proceedings in the chapter 11 case pending the outcome of the mediation
- Madison believes that a **structured process** would reduce the inefficiencies and wasteful expenses that often accompany a traditional chapter 11 process and that could imperil Madison's ability to carry on its charitable mission

RESTRUCTURING FRAMEWORK



Mediation

- Creating a process that includes **court-ordered mediation for a limited period** should compel parties to meaningfully and productively engage on the key issues that need to be resolved in this chapter 11 case before Madison can propose a plan of reorganization
- The Ad Hoc Committee and, subject to a reservation of rights, Federal, have agreed to support Madison's selection of **Judge Shelley Chapman as mediator**, who is eager to serve in such capacity

Suspension

- Sections 105 and 305 of the Bankruptcy Code, as well as the Court's inherent powers to manage its docket, provide authority to **temporarily suspend proceedings in a chapter 11 case** pending the outcome of determinative issues in another proceeding
- Suspension of substantially all proceedings (with exceptions for certain activities) during mediation will allow Madison and other key parties to **focus their efforts and resources on achieving a successful resolution** of Madison's liabilities under the CVA and, if any, the ASA, while giving Madison the best chance under the circumstances to preserve its charitable mission going forward

RESTRUCTURING FRAMEWORK



- Consistent with its projected budget, Madison will seek to implement the following estimated case timeline

<u>Estimated Date</u>	<u>Description</u>
On or around July 13, 2022	<ul style="list-style-type: none">Seek Court Approval of Mediation and Suspension
On or around July 20, 2022	<ul style="list-style-type: none">Seek Court Approval of “First Day” Relief on a Final Basis
On or around July 23, 2022	<ul style="list-style-type: none">Begin 90-Day Mediation
On or around October 21, 2022	<ul style="list-style-type: none">Conclude Mediation (subject to extension)

- If the mediation is successful, Madison will move expeditiously to confirm a plan of reorganization
- If the mediation is unsuccessful, Madison will need to explore other options, including liquidation alternatives

RESTRUCTURING FRAMEWORK



- Madison cannot survive a drawn-out chapter 11 case, and the proposed strategy of mediation and suspension is designed to **minimize the distraction, delay, and expense** of a restructuring process while complying with the requirements of the Bankruptcy Code
- In some fundamental respects, this case is different from other cases that were commenced to address liabilities arising under the CVA or similar statutes
 - Madison is a **small organization without deep-pocket support** and relies on the generosity of donors and government grants to fund its services
 - Madison has only **limited insurance coverage** currently available
 - The alleged abuse occurred decades ago, and Madison has since implemented rigorous child safety protocols and continues to make the safety and well-being of its members its top priority
 - The overwhelming majority of the claims against Madison (including approximately 92% of the pending claims) are attributable to one perpetrator, Dr. Reginald Archibald
- With this chapter 11 case, Madison is seeking to address decades-old claims and to preserve its future to ensure that the vital mission it began 138 years ago continues



**MADISON SQUARE
BOYS & GIRLS CLUB**

FIRST DAY MOTIONS

FIRST DAY MOTIONS



- To facilitate a smooth entry into chapter 11, Madison has filed the following first day pleadings:
 - *Application to Retain Epiq Corporate Restructuring, LLC* (Docket No. 2)
 - *Noticing and Confidentiality Procedures Motion* (Docket No. 3)
 - *Insurance Motion* (Docket No. 4)
 - *Wages Motion* (Docket No. 5)
 - *Cash Management Motion* (Docket No. 6)

FIRST DAY MOTIONS



- Madison has filed the following motions, each to be heard at the second day hearing:
 - **Mediation Motion** (Docket No. 7)
 - **Sections 105 and 305 Suspension Motion** (Docket No. 8)
 - **Utilities Motion** (Docket No. 9)
 - **Interim Compensation Motion** (Docket No. 15)
- Madison also filed the following retention applications, each to be heard at the second day hearing:
 - **Paul, Weiss, Rifkind, Wharton & Garrison LLP**, as restructuring counsel (Docket No. 11)
 - **Friedman Kaplan Seiler & Adelman LLP**, as special litigation counsel (Docket No. 12)
 - **Pillsbury Winthrop Shaw Pittman LLP**, as special insurance counsel (Docket No. 13)
 - **Teneo Capital LLC**, as financial advisor (Docket No. 14)